



QUALCOMM Incorporated

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October 25, 2005

Via ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Oral Ex Parte Presentation in WT Docket No. 05-7

Dear Ms. Dortch:

On behalf of QUALCOMM Incorporated ("QUALCOMM"), this is to report that yesterday, Steve Altman, the President of QUALCOMM, Larry Hartigan, Senior Vice President, Business Development, and I, along with Mark Wallace of Akerman Senterfitt, met with Chairman Martin, Catherine Bohigan, Fred Campbell, and Emily Willeford to discuss QUALCOMM's Petition for Declaratory Ruling in the above-referenced proceeding.

We provided Chairman Martin and his staff with background information on QUALCOMM's progress in launching MediaFLO on QUALCOMM's Channel 55 spectrum. We explained QUALCOMM intends to launch the service to cellular and PCS subscribers through wholesale agreements with existing commercial mobile wireless carriers starting in the third quarter of 2006 and that the business plan for MediaFLO requires an investment of approximately \$800 million. We explained that QUALCOMM has already made a substantial investment in this regard.

We also discussed the benefits that MediaFLO will bring to the tens of millions of people who ultimately subscribe to it—such as the ability to receive 50 to 100 video channels on their cell phones, including live streams, clips saved on the phone, as well as audio and data streams. In addition, we discussed the ability of MediaFLO to deliver emergency alerts to notify the public of impending emergencies. Finally, we mentioned the interest in MediaFLO expressed by wireless carriers all over the world, and the corresponding positive impact on U.S. global competitiveness if MediaFLO is launched in the United States and then elsewhere.

Further, we discussed the FCC's rules allowing new Part 27 licensees, such as QUALCOMM, to begin offering service using the 700 MHz spectrum they

purchased prior to the end of the DTV transition. We explained that the only TV or DTV stations that could be affected by the launch of MediaFLO are some stations on Channels 54, 55, or 56 in particular markets, and that such stations would only be affected for the limited period of time, namely just until the DTV transition ends. We explained that in markets in which there are no such stations or in which our analysis shows that under the Commission's rules, we can co-exist with such a station, we are in the process of launching MediaFLO. In other markets, in which it is predicted that there would be harmful interference, we are working to reach agreements with the stations in question. QUALCOMM's Petition for Declaratory Ruling, then, applies only to those markets in which MediaFLO would cause a *de minimis* level of interference to over the air reception of the particular station in question in a confined geographic area for a limited period of time.

We went on to explain that only a fraction of a fraction of a fraction of TV viewers of a particular station in any market would be affected by this *de minimis* interference—viewers who watch the station in question over cable or satellite would not be affected; viewers who watch TV over the air, but do not watch the station in question would not be affected; and, viewers who watch TV over the air and watch the station in question, but are outside a confined geographic area would, likewise, not be affected. We emphasized that the benefits that MediaFLO will deliver to tens of millions of people more than outweigh this very limited interference to a very limited number of people for a very limited period of time.

In addition, we discussed the vague aspects of Section 27.60 (b) (iii) of the Commission's rules for which QUALCOMM requested clarification in its Petition for Declaratory Ruling to launch MediaFLO in certain important markets. We explained that QUALCOMM requested authority to use the OET-69 methodology since it is widely known by the FCC and the TV industry and generally accepted as the most accurate methodology to calculate interference to TV stations. We pointed out that throughout the proceedings on QUALCOMM's Petition, no one has ever suggested that we use an alternative methodology. We also discussed QUALCOMM's request that the Commission allow QUALCOMM to cause up to 2% interference, the same standard that governs DTV stations on the very same spectrum and the fact that MediaFLO, as a digital video service, has characteristics for purposes of interference that are similar to a DTV signal, albeit at a lower power.

In the course of this discussion, we stressed that Section 27.60 does not impose any "no interference" requirement on 700 MHz licensees such as QUALCOMM. Instead, we pointed out that the full protection afforded to TV and DTV stations under the rule is, as the rule states, that 700 MHz licensees such as QUALCOMM must "reduce the potential for interference" to TV and DTV stations by operating in accordance with the terms of the rule. We stated that the rule

simply does not say that all interference must be eliminated. In addition, we noted that the Section 27.60 (b) (iii) provides that a 700 MHz licensee such as QUALCOMM may submit an engineering study “justifying the proposed separations” between the facilities of the 700 MHz licensee and that of a TV or DTV station, a provision which can only be read to mean that there is some level of interference resulting from such separations that the Commission would find to be justified.

Furthermore, we explained that since filing its Petition for Declaratory Ruling, QUALCOMM has reduced its proposed signal strength by 3 dB in light of the Wireless Bureau’s interpretation of the Part 27 power limits applicable to MediaFLO. We explained that this change significantly reduces the *de minimis* interference that MediaFLO would cause to much lower levels.

We noted, for example, that in the Phoenix market, now after taking into account the reduction in QUALCOMM’s signal, MediaFLO would actually cause interference to only 0.01% of the population covered over the air by the station in question. This 0.01% translates to just 245 people (98 households). However, only 18.6% of the viewers in the Phoenix market watch TV over the air. As a result, the total number of potentially affected people in Phoenix is a mere 17 households, a number which must be further refined to determine the fraction of those 17 households who actually watch the impacted TV station over the air.

In sum, we emphasized that the very substantial benefits to the public interest that will flow from the innovative MediaFLO service will more than outweigh this *de minimis* interference—interference that only a very small percentage of over-the-air viewers of a limited number of TV and DTV stations on Channels 54, 55, or 56 in a limited number of markets will experience for a limited period of time. For all of these reasons, we asked that the Commission expeditiously grant QUALCOMM’s Petition for Declaratory Ruling.

Respectfully submitted,

/s/ Dean R. Brenner

Dean R. Brenner
Vice President, Government Affairs
QUALCOMM Incorporated

Cc: Hon. Kevin Martin
Catherine Bohigan
Fred Campbell
Emily Willeford